

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Hiroshi KEODA

Appl. No.: 10/626,829

Filed: July 25, 2003

For: **Dispenser, Dispenser Array,
Manufacturing Method for
Dispenser, Inspection Device,
Inspection Method and Biochip**

Confirmation No.: 9229

Art Unit: 1743

Examiner: Jyoti Nagpaul

Atty. Docket: 1089.0500000/ALF

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated November 13, 2006, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects with traverse to prosecute the invention of Group I, represented by claims 1-16 and Species I, represented by Figs. 1-15 and claims 1-6 and 13, of which claims 1, 2, and 13 are generic. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made with traverse.

The Restriction of the Claims Into Three Inventions Is Improper

Inventions I and II are restricted as being unrelated. See Restriction Requirement, paragraph 2. As noted in the restriction requirement, inventions are unrelated if it can be shown that **they are not disclosed as capable of use together and** they have different designs, modes of operation, and effects. The Examiner has only asserted inventions I and II have different designs, modes of operations, and effects,

however they must also be incapable of use together. This is not the case because the specification discloses the dispenser of Invention I is capable of use with the inspection device of Invention II, as shown at least in FIG. 15 and paragraphs 115-116. Accordingly, Inventions I and II cannot be restrict as unrelated inventions.

Inventions I and III are restricted because the process of Invention III can be practiced with a materially different apparatus of Invention I, such as one that does not include identification holding means. See Restriction Requirement, paragraph 3. However, the process of Invention III in claim 35 recites, "recognizing identification information which is provided corresponding to a dispenser for discharging liquid." If the process recites recognizing identification information, then it follows that the identification information is located or held somewhere. The process of Invention III cannot be practiced without some form of identification holding means. Accordingly the restriction of Invention I and III is improper.

As stated above, the restriction of Invention I and II and the restriction of Invention I and III are improper. Accordingly, Inventions I, II, and III should be examined together as no single invention is restrictable from the other two inventions.

The Requirement for an Election of Species Is Improper

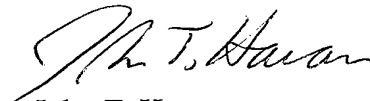
The species 1-6 outlined by the Examiner are not mutually exclusive and therefore the requirement of an election of a single species is improper. Each of the species relates to different features of the holding means, however these features are not mutually exclusive as evidenced at least by paragraphs 136, 150, 160, and 172 of the specification. Accordingly, each of species 1-6 should be examined.

Reconsideration and withdrawal of the Restriction Requirement and the Election of Species, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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